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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,671	06/18/2001	Vincent Chern	50310-00671	7192

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EXAMINER

NASH, LASHANYA RENEE

ART UNIT PAPER NUMBER

2153

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/881,671

Applicant(s)

CHERN, VINCENT

Examiner

LaShanya R. Nash

Art Unit

2153

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper Note(s).
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments with respect to claims 1-18 have been fully considered but they are not persuasive.

In considering the Applicant's arguments the following factual remarks are noted:

- (I) Applicant contends that Qua fails to teach a connection to a first server prior to a recording step on a second server.
- (II) Applicant contends that it is not obvious to modify the sequence steps of Qua with disclosures in Gupte to arrive at Applicant's invention.
- (III) Applicant contends that Gupte fails to disclose the easy access to voice attachments or audio files; therefore no motivation exists in Gupte to modify Qua.

In considering (I), Applicant contends that Qua fails to teach a connection to a first server prior to a recording step on a second server. However, Applicant fails to address Qua in combination with Gupte as applied by Examiner to show these aforementioned limitations. Examiner asserts, as stated in the previous Office Action (pages 3-4), Qua expressly discloses connecting to a first server (i.e. adjunct server) and second server (i.e. email server) so as to record and subsequently distribute audio files. Examiner additionally asserts that Gupte discloses first connecting to an email server (i.e. paragraphs [0014]-[0016]), so as to select an option to send an audio file to an email recipient (i.e. provide action menu) prior to the actual recording of the voice message (paragraph [0031]; Figure 5). Examiner asserts that the teachings of Gupte were cited so as to evidence that it was well known in the art at the time of invention, and therefore would have been an obvious modification to the method as disclosed by Qua to first connect to an email server to provide an option to send an audio message prior to the message being recorded. As a result, Examiner maintains rejections as set forth below in the Office action.

In considering (II), Applicant contends it is not obvious to modify the sequence steps of Qua with disclosures in Gupte to arrive at Applicant's invention. Examiner respectfully disagrees. As address with discussing (I), Gupte expressly teaches first connecting to an email server for making a decision to forward an audio note before the audio note is recorded, so as to compose an audio attachment for a reply email. Audio attachments and reply emails where well known electronic messaging features in the art at the time of the invention, as previously evidenced by Gupte, and subsequently would have been obvious modifications to the system of Qua. As discussed in the previous Office Action (pages 4-6), Qua expressly discloses distributing audio note files via an electronic mailing system as an audio attachment to an electronic mail. In turn, this specific functionality of Qua suggests a motivation to modify the system so as to also support recording and storing audio notes for reply emails (i.e. after connecting to first server). Although Qua does not expressly disclose the exact configuration of Applicant's invention (i.e. a connection to a first server prior to a recording step on a second server), the reference also does not explicitly nor implicitly suggest that this aforementioned configuration (i.e. Qua modified with Gupte) would render the system inoperable (i.e. Qua does not suggest that connecting to the email server 160 interferes or prohibits recording/storing function of the audio note taking mechanism 129). Applicant also fails to discuss any further evidence to support their assertion that Qua would be inoperable or unable as modified by Gupte (Remarks, page 10). Therefore, Examiner asserts that it is obvious to modify the sequence steps of Qua with disclosures in Gupte to arrive at Applicant's invention. As a result, Examiner maintains rejections as set forth below in the Office action.

In considering (III), Applicant contends that Gupte fails to disclose the easy access to voice attachments or audio files; therefore no motivation exists in Gupte to modify Qua. Examiner respectfully disagrees. Examiner asserts that Gupte discloses providing easy access to selected emails or other electronic communications via a wireless device (Gupte paragraph [0006], lines 6-10). In addition, Gupte expressly discloses that access to these aforementioned electronic communications is inclusive voice attachments and audio files (Gupte paragraph [0016] and paragraph [0031]). Therefore, Examiner further asserts that motivation exists in Gupte to modify Qua. As a result, Examiner maintains rejections as set forth below in the Office action.